

SENATE BILL No. 403

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2; IC 33-37-4.

Synopsis: Criminal justice institute. Replaces the membership of the commission for a drug free Indiana (commission) with members of the board of trustees of the criminal justice institute (trustees), as appointed by the chairman of the trustees. Eliminates the requirement of the commission to establish an interagency council on drugs. Requires the commission to coordinate the alcohol and drug program responsibilities of state agencies, commissions, and boards. Requires all state agencies to respond promptly to certain written requests from the commission. Requires each local coordinating council to lead and coordinate a process to assess the needs of the county for local alcohol and drug abuse plans and identify the goals and priorities of the coordinating council. Requires a county auditor to appropriate annually all money in a county drug free community fund (fund) to the local coordinating council for that county. Allows the commission to freeze a fund under certain circumstances. Prohibits the use of the fund for purchasing real estate or constructing, maintaining, or furnishing a structure. Makes technical corrections.

Effective: July 1, 2014.

Eckerty

January 14, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 403

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-6-1, AS AMENDED BY P.L.173-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 1. As used in this chapter:
4 (1) "Criminal justice" includes activities concerning:
5 (1) (A) the prevention or reduction of criminal offenses;
6 (2) (B) the enforcement of criminal law;
7 (3) (C) the apprehension, prosecution, and defense of persons
8 accused of crimes;
9 (4) (D) the disposition of convicted persons, including
10 corrections, rehabilitation, probation, and parole; and
11 (5) (E) the participation of members of the community in
12 corrections.
13 (2) "Entitlement jurisdictions" include the state and certain local
14 governmental units as defined in Section 402(a) of the Omnibus
15 Act.
16 (3) "Institute" means the Indiana criminal justice institute.



(4) "Juvenile justice" includes activities concerning:

- (1) ~~(A)~~ the prevention or reduction of juvenile delinquency;
- (2) ~~(B)~~ the apprehension and adjudication of juvenile offenders;
- (3) ~~(C)~~ the disposition of juvenile offenders including protective techniques and practices;
- (4) ~~(D)~~ the prevention of child abuse and neglect; and
- (5) ~~(E)~~ the discovery, protection, and disposition of children in need of services.

(5) "Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

(6) **"Local coordinating council" means a countywide citizen body approved and appointed by the commission for a drug free Indiana to plan, monitor, and evaluate comprehensive local alcohol and drug abuse plans.**

(7) "Local governmental entities" include:

- (1) ~~(A)~~ trial courts; and
- (2) ~~(B)~~ political subdivisions (as defined in IC 36-1-2-13).

(8) "Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

(9) "Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The board of trustees is composed of:

- (1) the governor, or ~~his~~ **the governor's** designee, who shall act as chairman;
- (2) the attorney general, or ~~his~~ **the attorney general's** designee;
- (3) the superintendent of state police, or ~~his~~ **the superintendent's** designee;
- (4) the commissioner of the department of correction, or ~~his~~ **the commissioner's** designee;
- (5) the executive director of the prosecuting attorneys council;
- (6) the executive director of the judicial center;
- (7) the executive director of the public defenders council;
- (8) the state public defender;
- (9) eight (8) persons who are appointed by and who serve at the pleasure of the governor, including:
 - (A) one (1) sheriff;
 - (B) one (1) chief of police;
 - (C) one (1) judge of a court with both juvenile jurisdiction and general criminal jurisdiction; and



(D) five (5) citizens who have manifested an interest in criminal or juvenile justice, one (1) of whom shall be a member of the state advisory group under the Juvenile Justice Act.

(b) The president pro tempore of the senate, or a senator appointed by ~~him~~, **the president pro tempore**, and the speaker of the house of representatives, or a representative appointed by ~~him~~, **the speaker**, may serve as nonvoting advisors to the trustees.

(c) Trustees appointed by the governor serve an initial three (3) year term and may be reappointed for additional terms. The additional terms may be four (4) years in length.

(d) Membership on the board of trustees does not constitute holding a public office.

(e) The chairman of the trustees shall appoint members of the trustees to serve on the commission for a drug free Indiana established by section 16 of this chapter.

SECTION 3. IC 5-2-6-16, AS AMENDED BY P.L.87-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) ~~As used in this chapter, "local coordinating council" means a countywide citizen body approved and appointed by the commission for a drug free Indiana to plan, monitor, and evaluate comprehensive local alcohol and drug abuse plans.~~

~~(b)~~ **(a)** The commission for a drug free Indiana is established (referred to in this section as "commission"). The criminal justice institute may adopt rules under IC 4-22-2 to administer the commission. The commission ~~must consist of twenty (20) members described under subsection (d)~~ **is composed of members appointed by the chairman of the trustees** who have distinguished themselves in their respective fields and who have experience or an interest in attempting to eliminate alcohol and other drug abuse in Indiana.

~~(c)~~ **(b)** The commission's purpose is to improve the coordination of alcohol and other drug abuse efforts at both the state and local levels in an effort to eliminate duplication of efforts while ensuring that comprehensive alcohol and other drug programs are available throughout Indiana. The commission's responsibilities include the following:

~~(1) Establishing an interagency council on drugs to coordinate~~ **Coordinating** the alcohol and other drug education, prevention, treatment, and justice programming and funding responsibilities of state agencies, commissions, and boards, including the approval of alcohol and other drug plans and funding applications by state agencies, commissions, and boards.



(2) Coordinating the collection of data concerning alcohol and other drug abuse and the needs, programming, and effectiveness of state supported programs and services.

(3) Maintaining a system of support to assist local coordinating councils with technical assistance, guidance, or direct funding resources.

(4) Continuing to assist the development of local coordinating councils to identify community drug programs, coordinate community initiatives, design comprehensive, collaborative community strategies, and monitor anti-drug activities at the local level.

(5) Establishing roles, responsibilities, and performance standards for the local coordinating councils.

(6) **Recommending Annually reporting** to the governor and general assembly long and short range goals, objectives, and strategies, including legislative proposals to be implemented on the state and local level to reduce drug abuse.

(7) **Assisting local communities in the development of citizen based drug related crime control efforts:**

(d) The commission must be comprised of the following voting members:

(1) The governor or the governor's designee.

(2) Fifteen (15) members, appointed by the governor for a two (2) year term, who have experience or expertise in at least one (1) of the following areas:

(A) Family relations:

(B) Religion:

(C) Education:

(D) Civic or private organizations:

(E) Business:

(F) Media:

(G) Drug treatment:

(H) Medicine:

(I) Local government:

(J) Judiciary:

(K) Law enforcement:

(L) Self-help organizations:

(M) Youth:

(N) A representative of the interagency council against drugs established under subsection (c)(1):

(O) Labor:

(3) Four (4) members of the general assembly, appointed as



1 follows:

2 (A) The president pro tempore of the senate shall appoint two
3 (2) senators; who may not be members of the same political
4 party.

5 (B) The speaker of the house of representatives shall appoint
6 two (2) representatives; who may not be members of the same
7 political party.

8 (c) The governor or the governor's designee shall serve as the
9 chairman of the commission.

10 (f) The commission shall meet quarterly or at the call of the
11 chairman.

12 (g) Eleven (11) voting members of the commission constitute a
13 quorum. The commission is not prohibited from conducting business
14 as a result of a vacancy in the commission. In the case of a vacancy, a
15 new appointee shall serve for the remainder of the unexpired term. A
16 vacancy shall be filled from the same group that was represented by the
17 outgoing member.

18 (h) All appointments of the commission's members are renewable.

19 (i) A member of the commission who is not a state employee is not
20 entitled to a minimum salary per diem provided by IC 4-10-11-2.1(b).
21 The member is, however, entitled to reimbursement for traveling
22 expenses and other expenses actually incurred in connection with the
23 member's duties; as provided in the state travel policies and procedures
24 established by the Indiana department of administration and approved
25 by the budget agency.

26 (j) A member of the commission who is a state employee is entitled
27 to reimbursement for traveling expenses and other expenses actually
28 incurred in connection with the member's duties; as provided in the
29 state travel policies and procedures established by the Indiana
30 department of administration and approved by the budget agency.

31 (c) Each state agency shall respond promptly to written requests
32 from the commission regarding requests for information
33 concerning alcohol and substance abuse prevention and treatment,
34 criminal justice services provided by the agency, and funding
35 sources for the alcohol and substance abuse prevention and
36 treatment programs.

37 SECTION 4. IC 5-2-6-16.5 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2014]: **Sec. 16.5. (a) Each local coordinating council shall lead
40 and coordinate a process to:**

41 (1) assess the needs of the county for local alcohol and drug
42 abuse plans; and



(2) identify the goals and priorities of the coordinating council.

(b) The process described in subsection (a) must include consulting with:

- (1) local units of government;
- (2) schools;
- (3) substance abuse treatment programs in the county;
- (4) law enforcement officials, including the sheriff;
- (5) county public health officials;
- (6) faith based organizations;
- (7) businesses; and
- (8) youth;

in the county, reflecting the diversity of the county.

(c) Each local coordinating council shall develop a comprehensive community plan. The plan must be approved by the commission for a drug free Indiana.

SECTION 5. IC 5-2-11-1.3 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 1.3: As used in this chapter, "intervention" means:

- (1) activities performed to identify persons in need of addiction treatment services; and
- (2) referring persons to or enrolling persons in addiction treatment programs.

SECTION 6. IC 5-2-11-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.7. As used in this chapter, "treatment services" means:

- (1) activities performed to identify persons in need of addiction treatment services;
- (2) referring persons to or enrolling persons in addiction treatment programs; and
- (3) delivering treatment to persons in need of addiction treatment.

SECTION 7. IC 5-2-11-1.8, AS ADDED BY P.L.44-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.8. As used in this chapter, "prevention" means the anticipatory process that prepares and supports an individual and programs with the creation and reinforcement of healthy behaviors and lifestyles **related to substance abuse and use.**

SECTION 8. IC 5-2-11-2, AS AMENDED BY P.L.1-2006, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A county drug free community fund is established in each county to promote **the comprehensive community**



1 **plan developed by the local coordinating council under**
 2 **IC 5-2-6-16.5. This fund must support** local alcohol and drug abuse
 3 prevention initiatives by supplementing local funding for treatment,
 4 education, and criminal justice efforts.

5 **(b)** The fund consists of amounts deposited under IC 33-37-7-2(c)
 6 and IC 33-37-7-8(e).

7 SECTION 9. IC 5-2-11-3 IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2014]: Sec. 3. The county auditor shall
 9 administer the fund **and annually appropriate all the money in the**
 10 **fund to the local coordinating council.** Expenditures from the fund
 11 shall be made in accordance with appropriations made under section 5
 12 of this chapter.

13 SECTION 10. IC 5-2-11-5, AS AMENDED BY P.L.26-2007,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2014]: Sec. 5. (a) As used in this section, "commission"
 16 means the commission for a drug free Indiana established by
 17 IC 5-2-6-16.

18 (b) Subject to subsections (c) and (d), ~~a county fiscal body~~ **the**
 19 **county auditor** shall annually appropriate **to the local coordinating**
 20 **council** from the fund amounts allocated by the county legislative body
 21 for the use of persons, organizations, agencies, and political
 22 subdivisions to carry out ~~recommended~~ actions contained in a
 23 comprehensive drug free communities plan submitted by the local
 24 coordinating council and approved by the commission as follows:

25 (1) For persons, organizations, agencies, and ~~political~~
 26 ~~subdivisions~~ **governmental agencies** to provide prevention and
 27 education services, at least twenty-five percent (25%) of the
 28 money in the fund.

29 (2) For persons, organizations, agencies, and ~~political~~
 30 ~~subdivisions~~ **governmental agencies** to provide intervention and
 31 treatment services, at least twenty-five percent (25%) of the
 32 money in the fund.

33 (3) For persons, organizations, agencies, and ~~political~~
 34 ~~subdivisions~~ **governmental agencies** to provide criminal justice
 35 services and activities, at least twenty-five percent (25%) of the
 36 money in the fund.

37 (4) A county fiscal body shall allocate the remaining twenty-five
 38 percent (25%) of the money in the fund to persons, organizations,
 39 agencies, and ~~political subdivisions~~ **governmental agencies** to
 40 provide services and activities under subdivisions (1) through (3)
 41 based on the comprehensive drug free communities plan
 42 submitted by the local coordinating council and approved by the



commission **and to pay for the expenses of the local coordinating council.**

(c) In the comprehensive drug free communities plan, the local coordinating council shall determine the amount of funds the county fiscal body shall appropriate to implement the objectives approved in the comprehensive drug free communities plan.

(d) If the comprehensive drug free communities plan is not approved by the commission, the county fiscal body may not appropriate any funds at the request of the local coordinating council or any other local entity.

(e) If funds are allocated by a county legislative body under subsection (b) and the commission has not approved the comprehensive drug free communities plan for the county, the commission may:

- (1) approve and appoint a new local coordinating council for the county;
- (2) freeze funds allocated by the county legislative body; or
- (3) reevaluate the comprehensive drug free communities plan.

(f) The commission may freeze the funds if both the following occur:

- (1) The local coordinating council is not in compliance with any policies or procedures established by the commission.**
- (2) The funds have been misappropriated under this section.**

SECTION 11. IC 5-2-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. **(a)** The fund may not be used to replace other funding for alcohol and drug abuse services provided to the county.

(b) The fund may not be used for:

- (1) purchasing real estate; or**
- (2) constructing, maintaining, or furnishing a structure.**

SECTION 12. IC 33-37-4-1, AS AMENDED BY P.L.182-2009(ss), SECTION 392, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).



- 1 (3) An alcohol and drug services program user fee
- 2 (IC 33-37-5-8(b)).
- 3 (4) A law enforcement continuing education program fee
- 4 (IC 33-37-5-8(c)).
- 5 (5) A drug abuse, prosecution, interdiction, and correction fee
- 6 (IC 33-37-5-9).
- 7 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 8 (7) A child abuse prevention fee (IC 33-37-5-12).
- 9 (8) A domestic violence prevention and treatment fee
- 10 (IC 33-37-5-13).
- 11 (9) A highway work zone fee (IC 33-37-5-14).
- 12 (10) A deferred prosecution fee (IC 33-37-5-17).
- 13 (11) A document storage fee (IC 33-37-5-20).
- 14 (12) An automated record keeping fee (IC 33-37-5-21).
- 15 (13) A late payment fee (IC 33-37-5-22).
- 16 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- 17 (15) A public defense administration fee (IC 33-37-5-21.2).
- 18 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- 19 (17) A judicial salaries fee (IC 33-37-5-26).
- 20 (18) A court administration fee (IC 33-37-5-27).
- 21 (19) A DNA sample processing fee (IC 33-37-5-26.2).
- 22 (c) Instead of the criminal costs fee prescribed by this section,
- 23 except for the automated record keeping fee (IC 33-37-5-21), the clerk
- 24 shall collect a pretrial diversion program fee if an agreement between
- 25 the prosecuting attorney and the accused person entered into under
- 26 IC 33-39-1-8 requires payment of those fees by the accused person.
- 27 The pretrial diversion program fee is:
- 28 (1) an initial user's fee of fifty dollars (\$50); and
- 29 (2) a monthly user's fee of ten dollars (\$10) for each month that
- 30 the person remains in the pretrial diversion program.
- 31 (d) The clerk shall transfer to the county auditor or city or town
- 32 fiscal officer the following fees, not later than thirty (30) days after the
- 33 fees are collected:
- 34 (1) The pretrial diversion fee.
- 35 (2) The marijuana eradication program fee.
- 36 (3) The alcohol and drug services program user fee.
- 37 (4) The law enforcement continuing education program fee.
- 38 The auditor or fiscal officer shall deposit fees transferred under this
- 39 subsection in the appropriate user fee fund established under
- 40 IC 33-37-8.
- 41 (e) ~~Unless otherwise directed by a court,~~ If a clerk collects only part
- 42 of a criminal costs fee from a defendant under this section, the clerk



- 1 shall distribute the partial payment of the criminal costs fee as follows:
2 (1) The clerk shall apply the partial payment to general court
3 costs.
4 (2) If there is money remaining after the partial payment is
5 applied to general court costs under subdivision (1), the clerk
6 shall distribute the remainder of the partial payment for deposit in
7 the appropriate county user fee fund.
8 (3) If there is money remaining after distribution under
9 subdivision (2), the clerk shall distribute the remainder of the
10 partial payment for deposit in the state user fee fund **for equal**
11 **distribution to the funds and entity listed in IC 33-37-9-4.**
12 (4) If there is money remaining after distribution under
13 subdivision (3), the clerk shall distribute the remainder of the
14 partial payment to any other applicable user fee fund.
15 (5) If there is money remaining after distribution under
16 subdivision (4), the clerk shall apply the remainder of the partial
17 payment to any outstanding fines owed by the defendant.

